

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301  
Indianapolis, IN 46204  
(317) 233-0696  
<http://www.in.gov/legislative>

**FISCAL IMPACT STATEMENT**

**LS 7016**

**BILL NUMBER:** HB 1158

**NOTE PREPARED:** Feb 17, 2011

**BILL AMENDED:** Feb 17, 2011

**SUBJECT:** Texting While Operating a Motor Vehicle.

**FIRST AUTHOR:** Rep. Yarde

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) For purposes of determining whether a person has committed criminal recklessness or has recklessly killed another human being, the trier of fact may consider, in addition to other relevant factors, whether the person used a handheld wireless communications device while operating a moving motor vehicle.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** (Revised) There are no data available to indicate how many offenders may be convicted of reckless homicide, a Class C felony, or criminal recklessness, a Class D felony, if the trier of fact may consider whether the person used a handheld wireless communication device while operating a moving motor vehicle.

Depending upon mitigating and aggravating circumstances, a Class C felony is punishable by a prison term ranging from 2 to 8 years and a Class D felony is punishable by a prison term ranging from 6 months to 3 years or reduction to Class A misdemeanor. The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$68,260 in FY 2010. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years and for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** If additional court cases occur and fines are collected, revenue to both the

Common School Fund and the state General Fund would increase. The maximum fine for a Class C or a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

If a criminal action, infraction or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** Department of Correction.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, Department of Correction.

**Fiscal Analyst:** Karen Firestone, 317-234-2106.